CIRCULAR No. 2/97

Dated June 1997 and issued by the Department of Transport

Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State for Transport is the Confirming Authority.

1. The purpose of this circular is to re-state and up-date the contents of the Memorandum attached to Department of Transport Circular Roads 1/81, which is hereby cancelled. **6–1541**

2. The annexed Notes take account of the Highways Act 1980 and the Acquisition of Land Act 1981. They are intended to supplement the general guidance given in Department of the Environment Circular 14/94—Compulsory Purchase Orders: Procedures—by dealing particularly with the questions which arise, or are likely to arise, in the preparation of orders for the compulsory acquisition of land for highways and car parks.

3. It is emphasised that the Notes are concerned solely with matters directly related to highways and car parks. Thus, all references to compulsory purchase orders should be taken as referring to such orders made by local authorities under the powers conferred upon them in respect of those two items and related matters.

4. Further advice and guidance on specific, complex and/or unusual drafting points can be obtained from the Department of Transport, Local Authority Orders, Wellbar House, Gallowgate, Newcastle upon Tyne NE1 4TD. It is only expected, however, that advice will be needed in such circumstances. The Department cannot otherwise offer a facility for the routine clearance of drafts, in which local highway authorities should have access to their own legal advice. Any advice or guidance which is given is without prejudice to the Secretary of State for Transport's consideration of the made orders when submitted for confirmation. *Those authorities who require such advice should make due allowance in planning the timetable for their scheme and they should also be aware that it is for them to decide whether or not to accept the advice on drafts which has been given. informally. by the Department.*

5. It is not envisaged that the implementation of the guidance in this circular will entail any additional expenditure or manpower.

CONTENTS

			Paragraph
	PREAMBLE		1
A.	PRELIMINARY STEPS TO THE MAKING AND CONFIRMATION OF COMPULSORY PURCHASE ORDERS		
	i.	Obtaining Planning Permission	2–7
	ii.	Obtaining Listed Building Consent	8
	iii.	Buildings in a Conservation Area	9–10
	iv.	Definition of "New Construction"	11–13
	v.	Necessity for "Certificates" or "Consents" in Certain Circumstances	14–17
B.	LAND INCLUDED IN A COMPULSORY PURCHASE ORDER		
	i.	Extent Justified	18–19
	ii.	Special Category Land	20–28
C.	DRAFTING OF THE ORDER		
	i.	The Form of the Order	29
	ii.	The Enabling Powers	30–34
	iii.	The Statement of Purposes	35–37
	iv.	Place for the Deposit of Maps	38
D.	COMPLETION OF THE SCHEDULE		
	i.	The Form of the Schedule	39
	ii.	Quantity of Land Scheduled	40–41
	iii.	Description of Land Scheduled	42–45
	iv.	Scheduled Interests	46–49
	v.	Unknown Ownership and Similar Cases	50

E. ORDER MAPS
- i. The Scale and North Point 51
- ii. The Heading 52
- iii. Distinction between "Rights" and "Title" Plots 53
- iv. The Boundaries 54
- v. Use of Stipple 55–56

F. NOTICES TO INTERESTS 57

G. DEPOSIT OF ORDER FOR PUBLIC INSPECTION 58

H. PROVISIONS AS TO LAND ACQUISITION ETC
- i. Means of Access to Private Premises 59
- ii. Side Roads 60
- iii. Working Space etc 61
- iv. Watercourse Diversions 62–63
- v. Public Sanitary Conveniences 64
- vi. Lorry Areas 65
- vii. Exchange Land (for purposes in paragraphs 59–65) 66
- viii. Access to Premises Adjointing Car Parks 67
- ix. Land in Advance of Requirements 68–69
- x. Acquisition of Rights Over Land 70–73
- xi. Distance Limits 74
- xii. Land Burdened by Restrictive Covenants and Third Party Rights 75
- xiii. Drainage of Highways 76–80
- xiv. Power to Acquire Land Outside the Highway Boundary 81

I. PROCEDURAL POINTS AFFECTING THE TREATMENT OF OBJECTIONS AND THE CONSIDERATION OF ORDERS
- i. Concurrency of Operative Dates of Orders 82–83
- ii. Power to Disregard Certain Objections 84–85
- iii. Submission of "Alternative Route" Objections 86–87
- iv. Part-confirmation of Compulsory Purchase Orders 88–89

J. SUBMISSION OF COMPULSORY PURCHASE ORDERS FOR CONFIRMATION
- i. Documentary Requirements 90
- ii. Submission of Made Orders 91
- iii. Supplementary Information 92–93
- iv. Adequate Time Allowance for Statutory Processes 94
- v. Related Side Roads Orders 95

K. CPOS WHICH ARE DEFECTIVE OR RAISE LEGAL DIFFICULTIES 96–98

L. RE-ASSESSMENT OF NEED FOR ROAD SCHEME 99

M. PERUSAL OF DRAFT ORDER BY THE DEPARTMENT 100

APPENDICES

I. Land Acquisition powers to be cited in compulsory purchase orders for highway purposes.

II. Model CPO Schedules
- A. Land Acquisition
- B. Miscellaneous rights

III. Major Road Schemes—
  A. Specimen draft CPO
  B. Notes for use in drafting the purposes of a CPO

IV. Minimum time allowance for Department of Transport statutory processes.

V. Documents to be submitted with a made Compulsory Purchase Order.

Preamble

1. A local authority's powers to acquire land compulsorily to construct or improve highways are all contained in the Highways Act 1980 ("the Act"). But the powers to acquire land for the provision of off street car parks are contained in the Road Traffic Regulation Act 1984.

A. Preliminary Steps to the Making and Confirmation of Compulsory Purchase Orders

i. Obtaining Planning Permission

2. There is no statutory requirement for planning permission to precede the confirmation of a CPO made for the purposes of the Act. Nevertheless the Secretary of State for Transport would always wish to be sure that a scheme for which he was authorising the compulsory acquisition of land would go forward as proposed in the order. Consequently it is his practice not to confirm a CPO until he is satisfied that the planning permission aspect of the scheme, to which the order relates, has been granted.

3. Where the scheme consists of works required for, or incidental to, the improvement of a highway on land outside, but adjoining, the boundary of the highway, planning permission is granted by the Town and Country Planning (General Permitted Development) Order S.I. 1995 No. 418 (Part 13 of Schedule 2 to the Order).

4. In other highway cases (except where the work envisaged will not be development at all, see section 55(2)(b) of the Town and Country Planning Act 1990 in which event the need for a CPO would not appear evident) specific granting of planning permission will be necessary; but where the local highway authority and the local planning authority are the same body, the provisions of Part II of the Town and Country Planning Act 1990 apply and there may be deemed planning permission.

5. Where the route of a new highway proposed by the local highway authority differs from that shown in the current adopted development plan, or is not shown at all, the local planning authority will have to follow the procedure set out in the Town and Country Planning (Development Plans and Consultation) Directions 1992; found in Annexes 2 and 3 to DOE Circular 19/92. Such a proposal may be called in by the Secretary of State for the Environment for his own decision following inquiry.

6. Where a proposed new highway is contrary to a provision in a formally adopted or approved development plan or local plan the same procedure will apply.

7. The planning procedure to be followed regarding the provision of off-street parking places for vehicles is the same as that in respect of new highway proposals referred to above.

ii. Obtaining Listed Building Consent

8. Under section 8 of the Planning (Listed Building and Conservation Areas) Act 1990 listed building consent must be obtained from the local planning authority or the Secretary of State for the Environment for the demolition of a building statutorily listed as being of special architectural or historic interest. The need to obtain listed building consent applies to demolitions of all listed buildings including those where the subsequent development is permitted under the General Permitted Development Order 1995 or where the authority have deemed planning permission. The Secretary of State for Transport will not wish to confirm a CPO affecting a listed building unless listed building consent has been given. The necessary consent should be applied for as soon as it becomes apparent that a CPO will affect a listed building.

iii. Buildings in a Conservation Area

9. Any building in a conservation area (except those exempted by a direction under section 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990), although not a listed building, requires conservation area consent for its demolition.

10. The Secretary of State for Transport will not wish to confirm a CPO affecting a building in a conservation area unless conservation area consent has been given. As soon as it becomes apparent that a CPO will affect such a building the local authority should apply for the necessary

consent. The procedure to be followed is set out in DOE Circular 14/94 "Compulsory Purchase Orders Procedures" (Appendix H).

iv. Definition of "New Construction"

11. In order to enable the purposes of the acquisition to be properly stated in the CPO itself, it is frequently important to determine whether the scheme involves the construction of a new highway or is a scheme for the improvement of an existing highway. In many cases the distinction is obvious but cases do arise (particularly where the scheme is a scheme for the significant re-alignment of an existing highway) in which it may be difficult to ascertain whether the scheme does or does not involve the construction of a new length or new lengths of highway.

12. It is considered that the proper criterion to be applied in all cases is that indicated in the wording of the description in Part 13 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995; that is to say, that where all the projected works are to be carried out on land outside but adjoining the boundary of an existing highway the case is one involving the improvement of an existing highway only, but where works are to be carried out on other land, so that, when the scheme is complete, there will be non-highway land between the projected works and the existing highway, then on that length the works should be regarded as works for the construction of a new highway.

13. Where the construction of a new length of highway is involved the question of planning permission should be dealt with as indicated in paragraphs 3 to 7 above. Similarly, a reference to the construction of a new highway should appear in the statement of purposes.

v. Necessity for "Certificates" or "Consents" in Certain Circumstances

14. It should be remembered that where common, town or village green, open space or fuel (turbary) or field garden allotment land, and/or rights over such land, are included in a CPO the order will be subject to Special Parliamentary Procedure unless a certificate is given by the Secretary of State for the Environment under section 19 of and/or paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. Applications for certificates should be made to the Secretary of State for the Environment (having regard to the advice in DOE Circular 14/94, Appendix G—Special Kinds of Land) as follows:—

(1) Common Land, Town or Village Greens.
The Department of the Environment
Countryside Division (CYD(4))
Tollgate House
Houlton Street
Bristol BS1 9DJ

(2) Open Space Land.
the Planning Branch of the appropriate Government Office for the Region

(3) Fuel or Field Garden Allotments
Regeneration Directorate (RD1(4))
Department of the Environment
Eland House
Brassenden Place
Victoria Street
London SW1E 5DU

15. In respect of any one common or open space a certificate will not be given for more than one of the alternatives specified in section 19 and/or paragraph 6 of Schedule 3 to the 1981 Act. The significance of this is that if more than one plot in a CPO affects a single common or open space (as regards acquisition of title or rights or both) and the total area of the plots exceeds 209 square metres (250 square yards):

(a) for new road construction, even if one or more of the plots is individually within the 209 square metres (250 square yards) limit, or

(b) for different purposes (new road construction and road widening or drainage)

it will be necessary to give land in exchange for all of them if a certificate is to be secured.

16. Where it appears that land is or may be a scheduled ancient monument, or forms the site of a scheduled ancient monument, the written consent of the Secretary of State for National Heritage, under section 2 of the Ancient Monuments and Archaeological Areas Act 1979, is required before any works take place. (Relevant definitions are contained in section 61(1) of that Act). At an early stage and with sufficient details to identify the site, acquiring authorities should consult in the first instance English Heritage or the County Archaeologist according to the circumstances shown below:

(1) in respect of a *scheduled* ancient monument—English Heritage, 2/4 Cockspur Street, London SW1Y 5DH or
(2) in respect of an unscheduled ancient monument or other object of archaeological interest—the County Archaeologist.

This approach need not delay other action on the order or its submission for confirmation, but the authority should refer to it in the letter covering the submission.

17. Section 17 of the Acquisition of Land Act 1981 removes the necessity for a compulsory purchase order which includes land acquired by a statutory undertaker for the purposes of their undertaking or is the property of a local authority to be subject to Special Parliamentary Procedure where there is an unwithdrawn objection from such statutory undertaker or local authority. However, section 16 of the 1981 Act may apply where an undertaker makes a representation, within the objection period, to the appropriate Minister. Where a valid section 16 representation is not withdrawn, the land may not be acquired compulsorily under powers in the Highways Act 1980 unless that Minister gives a certificate, in the relevant terms. [If a new right is being acquired, paragraph 3 of Schedule 3 to the 1981 Act will apply.] See Part I of Appendix G to DOE Circular 14/94.

B. Land Included in a Compulsory Purchase Order

i. Extent Justified

18. The Secretary of State for Transport will require to be satisfied in every case that the land included in a CPO can reasonably be regarded as required for the purposes of the acquisition as stated in the order. Where the scheme is one for the improvement or construction of a highway, this will normally mean that the only land to which the CPO should relate will be the land falling within the highway as improved or newly constructed. If land outside these limits is required for use in connection with the improvement or construction of a highway (*e.g.* as working space), this will need to be made clear and the power in section 240(2)(a) cited.

19. Where the boundary of the widening or new construction cuts through a building, notwithstanding the powers of an owner to exercise his right under section 8 of the Compulsory Purchase Act 1965 to require the highway authority to buy the entire building or in a case where the provisions of that section may be inapplicable, it is usually appropriate to acquire the site of the entire building in reliance on section 240(2)(a). This certainly should be done in cases where the demolition of part of a building would cause the rest of the building to collapse or leave a precariously poised or dangerous structure. Where, however, the highway scheme involves the acquisition of significant areas of land which will lie outside the highway boundary, in a case where section 240(2)(a) is inapplicable, use should be made of the powers given by section 239(6) as well as those given by section 239(1) or (3) of the Act; and, as appropriate, section 246(1).

ii. Special Category Land

20. Difficulties can arise where it is necessary for a local highway authority to acquire, for the purposes of a highway scheme or ancillary works, land in one of the following special categories:
(a) consecrated land and burial grounds;
(b) common, town or village green, open space, fuel (turbary) or field garden allotment land which is subject to special statutory provisions (*e.g.* a provision in a local Act that the land must not be enclosed);
(c) National Trust land.

21. It is not practicable in a general circular of this nature to explain in any detail the complexities of the law in relation to these matters but the following paragraphs may be helpful as a general guide. (Further advice is given in Appendices E, G and J to DOE Circular 14/94).

22. The expression "*burial ground*" covers any churchyard, cemetery or other ground, whether consecrated or not, and whether in use or not, which has at any time been set aside for interment. *A disused burial around may be open space* (a definition of "open space" is to be found in section 20 of the Open Spaces Act 1906). Burial grounds belonging to local councils as burial authorities are not, as such, consecrated land (although a part of such ground may in fact have been consecrated—see below) nor are those provided by religious denominations other than the Church of England.

23. "Consecrated land" is land consecrated by a Bishop of the Church of England and will normally cover the church, its site and curtilage, and the churchyard (together, possibly, with any land which may have been added). Consecrated land is subject to ecclesiastical law and, while as such it is not exempt from compulsory acquisition, it cannot lawfully be used for secular purposes unless it is freed from such restrictions by:

(a) a Church of England Measure; or
(b) the application of the provisions of sections 238–240 of the Town and Country Planning Act 1990; or
(c) the grant by the ecclesiastical court of a faculty to use the land for secular purposes.

24. In practice, course (a) above is unlikely to prove of value in connection with the usually small portions of land required for highway schemes. Normally, course (c) might be the simplest one to follow, an application being made to the Chancellor of the Diocese for a faculty to use the land for secular purposes which, if granted, will generally give the highway authority the necessary powers to carry out the works for highway schemes. It should not be necessary to include, in a CPO, land for which a faculty has been granted. However, it should be borne in mind that the Diocesan Chancellor is not obliged to grant a faculty and other problems may arise—*e.g.* it would not be possible to erect buildings, and the transference of human remains may require a Home Office licence under section 25 of the Burial Act 1857. Sections 238 and 239 of the Town and Country Planning Act 1990, (b) in paragraph 23 above, make very adequate provision for solving the problems posed by ecclesiastical law and statute on the use of burial grounds whether consecrated or not. These provisions are applicable to CPOs made by local highway authorities under powers given to them in the Highways Act 1980 and the Road Traffic Regulation Act 1984 by virtue of sections 239(1) and 240(3) of the Town and Country Planning Act 1990. Where these provisions apply in relation to burial grounds a licence under section 25 of the Burial Act 1857 is not required, but it is necessary to comply with the requirements of the Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations S.I. 1950 No. 792. (See also Faculty Jurisdiction Measure 1964; Care of Churches and Ecclesiastical Jurisdiction Measure 1991.) The Home Office Coroners Section, Constitutional and Community Policy Directorate, Queen Anne's Gate, London SW1H 9AT (Tel: 0171–273–2888/3574) can provide further advice in respect of burial land and the removal or disturbance of human remains.

25. In a case where a CPO includes land which forms part of any burial ground and objection is made to the order by relatives of persons buried there, a local inquiry or hearing has to be held in connection with the order even if the objectors cannot show that they have any legal interest in or title to the graves.

26. If a CPO includes the acquisition of rights over any part of a *common, town or village green, open space (which see paragraph 22 above, may include a disused burial ground) or fuel (turbary) or field garden allotment* the order will be subject to special parliamentary procedure unless a certificate has been granted by the Secretary of State for the Environment under the provisions of section 19 of and/or paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. (See also paragraph 14 above.) But if the order includes special category land held inalienably by the National Trust and the Trust maintain an objection to the order, then the order will be subject to special parliamentary procedure under section 18 of the Acquisition of Land Act 1981 whatever certificate may or may not have been given under section 19.

27. Where compulsory acquisition results in legal inclosure, consent will be needed under section 22 of the Commons Act 1899. The Secretary of State is advised that it means legal inclosure, *i.e.* the extinguishment of commons rights, rather than the physical inclosure of land to which section 194 of the Law of Property Act 1925 applies. Where exchange land is to be given, consent to the extinguishment of commons rights over the land acquired will still be necessary notwithstanding that the exchange land will become subject to the like rights. It follows that consent under section 22 is only needed where the common rights are to be extinguished, either upon a grant made under the authority of one of the scheduled Acts which has that effect, or by virtue of a compulsory acquisition. Where it is not intended to extinguish the common rights, but it is intended to undertake works to which section 194 of the Law of Property Act 1925 applies, the need for the Secretary of State's consent under that section should be considered.

28. From the foregoing paragraphs local highway authorities will appreciate the need to identify any problems relating to special category land in the very early stages of formulating highway scheme proposals so that they can be resolved in good time. Where a CPO is subject to special parliamentary procedure it is estimated that a minimum period of 13 weeks should be added to the CPO timetable. It should also be borne in mind that special parliamentary procedure can subject the order *as a whole* to re-scrutiny and is not confined to a particular part of the order.

C. Drafting of the Order

i. The Form of the Order

29. The form used should always be as prescribed by the requirements of the current issue of the Compulsory Purchase of Land Regulations, ("the Regulations", currently S.I. 1994 No.

2145) including after the Schedule or Schedules where necessary, details of land falling within special categories. In drafting the order the Notes to Forms 1–3 in the Schedule to the Regulations are part of the instrument and must be complied with, subject to the advice in Section D below.

ii. The Enabling Powers

30. The powers on which the acquiring authority rely in making a CPO should be correctly stated. Current legal advice suggests that, for CPOs made under the Act, it is not necessary for the exact powers of acquisition to be cited, given that these are specific to the relevant highway purpose. However the Secretary of State considers that it is best practice to cite in the order the powers upon which the local highway authority propose to rely (see section K of this Annex). Failure to do so in itself however will not render the order incapable of confirmation.

31. It is considered sufficient to cite a particular section of the Act and it is not considered necessary to elaborate that citation by including references to particular subsections. While the inclusion of a subsection is not wrong, experience has proved that it is easy to cite a wrong subsection when drafting an order.

32. At Appendix I to this Annex is a list of the main sections of the Highways Act 1980 and the Road Traffic Regulation Act 1984 which will need to be cited in CPOs for highway or off-street car parking schemes.

33. At Schedule 18 to the Highways Act 1980 is a Table showing the distance limits applicable to compulsory acquisition of land by local authorities in the exercise of highway land acquisition powers.

34. When a district authority (acting under an agreement with the county council under section 101 of the Local Government Act 1972) makes a highways CPO the following words should be used:—

> "The X [District] [Borough] Council acting under an agreement with the Y County Council pursuant to section 101 of the Local Government Act 1972 hereby makes the following Order" (or section 8 of the Highways Act 1980 where agreement is between local highway authorities).

iii. The Statement of Purposes

35. Note (e) to Forms 1–3 in the Schedule to the Regulations requires that the purposes be described in precise terms and, where practicable, using the words of the relevant Act. It is impossible to over-emphasise the importance of stating the purposes of the acquisition fully, clearly and without error. The Secretary of State for Transport is advised that his power to modify on confirmation would not normally justify his making any alteration in the statement of purposes actually set out in the order, to correct a mistake in that statement. *Therefore any serious error or inadequacy in the statement of purposes is likely to result in a refusal of confirmation on this around alone.* (See section K of this Annex).

36. To assist in attaining clarity and accuracy in the statement of purposes the following suggestions are made:—

(1) **Construction as well as improvement**
If construction of a new length of highway, and an improvement of an existing highway, are involved, both purposes should be clearly stated.

(2) **Ancillary roads, etc**
Where construction of a new highway involves construction of ancillary roads to connect the new road with the existing highway system, or related improvements to existing roads, this should be made clear.

(3) **Highways to be improved**
These should be named or briefly described.

(4) **New lengths of highway**
These should be briefly described (*e.g.* "a new highway to bypass (name of village)", "a new highway from High Street to John Street in the said District/Borough", etc).

(5) **Land outside the highway**
If any significant areas of land outside the proposed boundaries of the highway are to be acquired and the CPO is to be made in reliance on section 239(6) of the Act, the statement of purposes should include a reference to land adjoining or adjacent to the highway, as well as to the frontages to the highway.

(6) **Associated schemes/orders**
Where there is an associated special roads scheme and/or side roads order the purposes need not be elaborate; they can be described in broad terms and as being in pursuance of the made scheme and/or order.

(7) **Car parks**
Where a proposal includes provision of a parking place for vehicles and also provision of a means of access to the rear of premises backing on to the proposed parking place, this must be stated and the powers in the Road Traffic Regulation Act 1984 cited. Where part of the land in a car park CPO is required for the provision of a means of entry to and exit from the parking place this must be clear in the description of the purposes (see the wording of section 32(1) of the Road Traffic Regulation Act 1984).
(8) **Acquisition of rights**
Where it is proposed to acquire rights over land for various purposes (including drainage) these should be described. Some examples are given in the Model CPO Schedules at Appendix IIB to these notes.

37. The specimen form at Appendix III A and the Notes at Appendix III B may be of help in drafting the more complex cases.

iv. Place for the Deposit of Maps

38. The part of the prescribed form which refers to the deposit of the maps in the offices of the confirming authority should be completed as follows: "the offices of the Secretary of State for Transport" (the Regulations do not require the address to be inserted). The confirming authority is the Secretary of State for Transport *not* the Department of Transport.

D. Completion of the Schedule

i. The Form of the Schedule

39. The layout of the Schedule or Schedules is prescribed by the Regulations and must be adhered to in all cases. (See Appendix IIA).

ii. Quantity of Land Scheduled

40. The precise area of each plot must be stated. All distances and areas should be expressed in the same basic unit of measurement, which must be metric in order to comply with the Units of Measurement Regulations S.I. 1995 No. 1804.

41. In the case of rights to be acquired under sections 250 to 252 of the Act, the land affected by the right needs to be precisely described in the Schedule or Schedules and identified on the map. It is important to include an adequate area in the CPO as being land affected by the right including, for example, a sufficient width of land to enable construction equipment etc to be taken on to the land and used on the site of the works for which the right is being acquired. (Paragraph 53 below refers to the use of separate colouring or different symbols on the plan to denote "rights" plots as distinct from "title" plots and the separate colours or symbols used should of course be described, where appropriate, in the order. See Notes (f) and (j) to Forms 1–3 in the Schedule to the Regulations.)

iii. Description of the Land Scheduled

42. Each plot should be described in terms readily understood by the layman and it is particularly important that local people can identify the land described. The Regulations require that the description must contain sufficient detail to tell the reader approximately where the land is situated without reference to the map. Simple descriptions in ordinary language are therefore preferred, where the land is agricultural land it should be described as "pasture land", "arable land", "woodland", etc as applicable. Where the land is in an urban area, it should be described as "part of front garden to the dwelling house No. . . . ", "dwelling house No. . . . together with front and back gardens thereto" etc. Where new rights are to be acquired (see paragraph 36(8) above and Appendix IIB) they should be described in sufficient detail to give a reasonably precise indication of the nature, extent and situation of the proposed acquisition. A right to maintain should be included wherever appropriate, *e.g.* a right to construct a bridge over land or to lay a drain in land should be described as "a right to construct and maintain . . . " or "a right to lay and maintain . . . ".

43. Where the authority themselves own any interest in the land, or an interest is owned by the Crown or a Government Department that land should be described in the Schedule as "all interests in [specify the land] except interests owned by [the acquiring authority or Crown or named Government Department"]. The other columns of the Schedule should be completed appropriately (see part iv below). Where the land is included in the CPO in pursuance of section

260 of the Act, however, the acquiring authority should not, of course, exclude their own interest in the land.

44. Where the description includes a reference to ordnance survey field numbers, it should also state or refer to the sheet numbers of the ordnance survey maps on which these field numbers appear, and also quote the edition of the map. Where O.S. field numbers are referred to in the Schedule they should also be included in the CPO map.

45. Particular care should be taken to ensure that when compass points are quoted to describe the situation of land they should be as precise as possible.

iv. Scheduled Interests

46. The names of the owners, lessees and occupiers should be shown so as to accord with the names of the persons upon whom personal notices are served. The following may be helpful in connection with the service of the notices and the compilation of the CPO Schedule—

(1) A private individual:	That individual, at the last known address unless they have specifically furnished an address for service. (Where the individual is a "Tenant for Life" this description *must not* be included in the notice).
(2) Two or more joint owners:	Each of the joint owners (include initials of both if husband and wife).
(3) A contracting purchaser:	The contracting purchaser as well as the owner, where there is a binding contract.
(4) A registered (Limited) company:	"The Secretary" at the address of the registered or principal office of the company. (The name of the company must not be prefixed by "Messrs").
(5) A partnership:	Each of the partners, or a solicitor authorised and will to accept service. Alternatively, under section 233(3)(b) of the Local Government Act 1972 service may be made on "a partner or a person having the control or management of the partnership business".
(6) A trusteeship:	Each of the trustees. Alternatively, one trustee (or a solicitor) authorised by all the trustees and who is willing to accept service.
(7) Executors:	Each of the executors, unless they have renounced their rights in favour of one only; in which case, that one. Alternatively, a solicitor authorised and willing to accept service.
(8) A charity:	Each of the trustees or a solicitor authorised and willing to accept service. (It should *not* be served on the Official Trustee of Charity Lands).
(9) An individual or group of individuals trading under a "Business Name":	Each of the individuals, in their own name, showing also the name under which they are trading. Alternatively, a solicitor authorised and willing to accept service.
(10) Any other body:	The secretary or clerk of that body.

Where it is proposed to serve notice on a solicitor, he should be asked by the acquiring authority to confirm that he is authorised and willing to accept the service and also to furnish the full names and addresses of all the individuals, partners, trustees, executors etc for whom he will accept service.

47. Where an order includes Church of England property (*i.e.* land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese, or the site of such a church, or being or forming part of a burial ground subject to such

jurisdiction), any notice required to be served on the owner must be served also on the Church Commissioners (formerly the Ecclesiastical Commissioners) in accordance with section 12(3) of the Acquisition of Land Act 1981.

48. If there is doubt as to which of two persons is the owner both persons should be shown and served. Questions of title can be resolved later. If there is uncertainty as to whether an occupier really is a tenant for a month or less, their name should be included in the occupiers' column and they should be served.

49. It is helpful if the occupiers' column can be completed in all cases. Where a named owner or lessee is the occupier, the word "owner" or "lessee" should be inserted. Where the property is unoccupied, the word "unoccupied" should be inserted. Where the occupier is a tenant for a month or less, a dash should be inserted in the occupiers' column. The uniform adoption of this system would save many detailed enquiries.

v. Unknown Ownership and Similar Cases

50. Where there is difficulty in tracing owners, under section 6(4) of the Acquisition of Land Act 1981 a notice or notices may be posted on or near the land. The word unknown should be entered in column 3 of the Schedule.

E. Order Maps

i. The Scale and North Point

51. The use of a sufficiently large scale for the map is most important. Note (f) to Forms 1–3 in the Schedule to the Regulations states that maps should normally be on a scale of 1/500 or 1/1250 or 1/2500. Where a particular section of a scheme involves the acquisition of a considerable number of small plots, the use of insets on a larger scale is necessary if the main scale of the map is small; the scale of the inset must be clearly shown. *Every sheet of a CPO map should have the north point prominently displayed on it.*

ii. The Heading

52. The heading of the maps should agree in all respects with the description of the map heading stated in the body of the order. This means that the words "Map referred to in the . . . " should be included in the actual heading or title of the map.

iii. Separate Colouring of "Rights" and "Title" Plots

53. Where it is proposed to acquire new rights over land as distinct from acquiring title to the land, Note (f) to Forms 1–3 states that plots of land affected by a rights acquisition should be shown by different colourings on the CPO map. The use of a different colour (or different symbol) is a statutory requirement. (See also the Department of Transport Notes on the Preparation of Land Plans and Reference Schedules).

iv. The Boundaries

54. The boundaries between the plots should be clearly delineated. If in any particular case it is impossible to indicate a boundary precisely, the land in question should be shown as one plot and all the interested persons should be included in the relevant column in the Schedule. Each plot must be separately numbered to correspond with the order Schedule.

v. Use of Stipple

55. Where maps are prepared with the plots shown in stipple it should be ensured that there is clear delineation and distinction between the various plots.

56. There must be no discrepancy between the order Schedule and the map or maps, and no room for doubt on anyone's part as to the precise areas of land and interests which are included in the order, otherwise the order may be rejected.

F. Notices to Interests

57. The date on which the order is made, *i.e.* sealed, is the date which should be inserted in the

notice as the date of the making of the order and *not* the date of the Council's resolution to make the order. See DOE Circular 14/94, Appendix E, paragraph 25.

G. Deposit of Order for Public Inspection

58. It is laid down in sections 11 and 12 of the Acquisition of Land Act 1981 that the prescribed notices which are required to be published and served will name a place "within the locality" where copies of the order and maps may be inspected. This means that the documents must be deposited within reasonably easy reach of persons living in the area affected (see Notes (j) and (h) to Forms 7 and 8, respectively, of the Regulations). It is not sufficient for local authorities to deposit the documents at their own offices if these are not "within the locality" and Post Offices, Citizens Advice Bureaux and public libraries should be used if necessary in order to satisfy statutory requirements.

H. Provisions as to Land Acquisition etc

[Note: Section 238(1) of the Act provides that the powers under sections 240 to 246 (with the exception of section 246(2)) are exercisable compulsorily or by agreement.]

i. Means of Access to Private Premises

59. Section 240(1) of the Act gives highway authorities power to acquire compulsorily land for the purpose of providing new means of access to private premises authorised by section 129 or by an order under section 14. (See also paragraph 67 on car parks). Land needed for use in connection with the carrying out of such works may also be included in the compulsory purchase order.

ii. Side Roads

60. Section 240(1) of the Act also empowers the compulsory acquisition of land required in connection with an order made under section 14 for the alteration of side roads which cross or enter the route of a classified road or will otherwise be affected by the construction or improvement of a classified road. Land needed for use in connection with the carrying out of such work may also be included in the CPO.

iii. Working Space etc

61. Section 240(2) of the Act authorises highway authorities to acquire compulsorily land adjoining or in the vicinity of an existing highway or the route of a proposed highway in order to enable them to carry out reasonably and effectively works in connection with the construction or improvement of the highway, (*i.e.* land for working space, means of access to construction sites or the provision of spoil dumps, plant and machinery storage space etc), or with the carrying out of works authorised by an order made under section 18 or under section 108(1). (See paragraphs 59 and 60 in relation to working space etc required in connection with works carried out under section 129 or 14.)

iv. Watercourse Diversions

62. Many highway schemes involve the diversion of or execution of works to watercourses and sections 106 and 107 of the Act, make provision for the construction of bridges over or tunnels under navigable watercourses. Sections 108 and 109 give specific powers to divert a navigable watercourse and to enable the construction of side road bridges over or tunnels under a navigable watercourse to be dealt with in the side roads order. Section 110 provides powers to divert non-navigable watercourses and to carry out general works (not involving bridges or tunnels) in respect of both navigable and non-navigable watercourses; the power to acquire land for these purposes is provided in section 240(2)(b), and under section 249(3) the distance limits in relation to compulsory acquisition do not apply to land or rights acquired for this purpose.

63. It will be noted that section 110 of the Act generally provides for watercourse diversion works to be carried out without the acquisition of land and in such cases (see subsections (5) and (7) of that section) a distinct procedure as to serving of notices and hearing of objections is laid down. It is thought, however, that where local highway authorities are proposing to carry out such works in connection with a highway scheme for which they are also making a CPO for other land they will find it advantageous to include in the CPO, rights to carry out the watercourse

works; this will ensure that all the objections are dealt with under the CPO machinery and so avoid a duplication of procedures for dealing with objections to the same scheme.

v. Public Sanitary Conveniences

64. A county council's power under section 87 of the Public Health Act 1936 to provide public sanitary conveniences (including lavatories) along county roads within the boundary of the highway has been extended by section 114 of the Act to enable them to provide such amenities on land adjoining or in the vicinity of a county road; section 240(4) gives land acquisition powers. Where, however, a county council provide public sanitary conveniences by a county road under section 88 of the 1936 Act it is not thought that any exercise of land acquisition power is likely to be needed.

vi. Lorry Areas

65. Section 115 of the Act sets out the circumstances in which highway authorities are empowered to provide lorry areas, together with buildings connected with their use and a means of access to and from a highway, for the parking of heavy goods vehicles and the handling and a temporary storage of goods carried in such vehicles. Land required in connection with the provision of these facilities can be acquired compulsorily under section 240(5).

vii. Exchange Land (for purposes in paras 59 to 65)

66. The provisions of section 240(6) of the Act give the power to acquire exchange land when, common, open space, or fuel or field garden allotment land is required for implementing one or other of the purposes mentioned in paragraph 59 to 65 above. See also paragraph 81 below re section 246.

viii. Access to Premises Adjoining Car Parks

67. Section 34 of the Road Traffic Regulation Act 1984 makes it possible for local authorities to enable a car park (provided under section 32 of the 1984 Act) to be used as a means of access to premises adjoining or abutting on, that car park. The necessary land acquisition powers are given by an adaptation and extension of section 40 of the 1984 Act (See Appendix I).

ix. Land In Advance of Requirements

68. The provisions of section 248(2)–(4) of the Act (together with Schedule 17) enable highway authorities to use their land acquisition powers to acquire land compulsorily in advance of requirements, subject to one or more of the conditions set out in section 248(3) being fulfilled.

[NOTE: In regard to the condition set out in section 248(3)(c), plans for the scheme as a whole must have been formally approved by the appropriate Government Office for the Region on behalf of the Secretary of State for Transport. It will not however be necessary for detailed engineering drawings of the proposed *second stage* of the schedule to be submitted with the application for approval, outline drawings will suffice].

69. This power is useful, for example, where land is required for the construction of a new road which is designed carriageway road but where it is intended to build only one of the carriageways immediately, or where it is intended to carry out a major highway improvement but only a limited improvement is to be made in the first instance. These powers are also exercisable in relation to the provision of service areas, maintenance compounds and lorry areas. But, as set out in section 248(2), in order to exercise these powers the highway authority must have an immediate intention to throw *all* the land into the highway (*e.g.* as a very wide verge) or into the service area etc as the case may be, *or* they must intend to carry out immediately some works (*e.g.* bridge works, cuttings, embankments) wholly or partly on the second stage land, *or* their outline plans for the use of this subsequent stage area must have been approved by the Secretary of State for Transport. Where the land is not to be thrown into the highway immediately it might well be possible for a landowner to retain an area of second stage land under cultivation or for grazing until such time as the highway authority needs it for highway works. The provisions of this power facilitate considerably the forward planning of local authorities' major road projects; it also makes it possible to acquire the necessary land in one operation instead of two or more as well as avoiding the expense of making several CPOs and conducting associated inquiries. The provisions may also be of benefit to landowners whose land might otherwise be subject to piecemeal acquisition.

x. Acquisition of Rights Over Land

70. There are frequent cases where highway schemes necessitate work on land not required to

form part of the highway. So long as the highway authority have power to carry out such work and the landowner can retain beneficial use of the land, the highway authority need not incur the expense of acquiring and maintaining land unnecessarily. Sections 250 to 252 of the 1980 Act (which should be read with Schedule 19) provide for the compulsory acquisition of rights over land by the creation of new rights.

71. The kind of rights for which these provisions are designed are in the nature of easements ancillary or appurtenant to the highway, proposed highway or other facility. Examples of those likely to be required in connection with highway schemes, and which it appears would be dealt with advantageously under these sections, are as follows:

(a) the right to construct and maintain a bridge, viaduct, tunnel or other structure to carry a highway over or under land;
(b) the right to lay and maintain drains and associated works (*e.g.* inspection chambers); but see also paragraphs 76 to 77;
(c) the right to carry out works on watercourses (*e.g.* diversions, widening or deepening channels, filling in old watercourse beds etc);
(d) the right to place and maintain footings or ground anchors in land;
(e) the right to reshape or regrade land outside the boundaries of a highway or proposed highway (*e.g.* placing embankments or shaping cuttings etc);
(f) the right to place and maintain snow fences, etc on land;
(g) the right of access for the construction and maintenance of a retaining wall (*i.e.* on other land to which title will be acquired).

72. However, it is emphasised that the Department does not envisage that these powers can be used by highway authorities in cases where the land will form part of the highway or proposed highway or where the works they wish to carry out will, to all intents and purposes, deprive the landowner permanently of beneficial use of the land; in such cases full title to the land would be appropriate. Similarly, in so far as compulsory acquisition is concerned, full title should be included in the CPO in cases where highway land acquisition powers are exercised to provide for a footpath, bridleway or other highway across land or for a new means of access to premises for a third party.

[NOTE: Sections 250 to 252 do not provide for the compulsory creation of rights for limited periods, though they do not preclude the creation of such rights by agreement. Also sections 242(3), 254 and 255 which are rarely used powers (dealing with the creation of rights) are not affected by these provisions. The general powers in section 13 of the Local Government (Miscellaneous Provisions) Act 1976 under which local authorities may acquire new rights is quite discrete (see section 13(4)) and should not be used in place of powers in the 1980 Act.]

73. CPOs for compulsory acquisition of new rights under sections 250 to 252 of the Act are subject to provisions similar to sections 16 and 19 of the 1981 Act. In the case of a new right over land acquired by statutory undertaker, a certificate may be required under paragraph 3 of Schedule 3 to the 1981 Act (see also paragraph 17 above). In the case of a new right over common, open space or fuel or field garden allotment, the order may be subject to special parliamentary procedure in the same way as orders for acquisition of title are unless, in relevant circumstances, a certificate is given under paragraph 6 of Schedule 3 to the Acquisition of Land Act 1981. [In this respect these provisions differ from those in sections 254 and 255]. Specific power to acquire land to be given in exchange for rights which will burden common or other special category land is contained in section 250(2). Rights acquired under these powers (see section 251) are binding upon successors in title to the land concerned, and where a highway is transferred from one highway authority to another they are exercisable by the transferee authority. Section 251(5) provides in effect that where registered land is affected, the instrument creating rights must be registered under the Land Registration Acts. Section 252 provides that a landowner can require an acquiring authority to take full title to the land instead of the right authorised in a CPO.

xi. Distance Limits

74. Section 249 of and Schedule 18 to the Act specify the distance limits applicable to the compulsory acquisition of land. The distance limits do not apply to the compulsory acquisition of land required for the drainage of a highway, the diversion of a navigable watercourse or the carrying out of works on any part of a watercourse authorised under section 110, or the provision of protection for a highway or proposed highway against snow, flood, landslide or other natural hazards.

xii. Land Burdened by Restrictive Covenants and Third Party Rights

75. Section 260(1) and (2) of the Act empowers highway authorities to include in CPOs which embrace other land, land in which they have already acquired an interest by agreement but

which is burdened by restrictive covenants or other third party interests. When such a CPO becomes effective, section 44 of the Land Compensation Act 1973 will apply, thus giving persons entitled to the benefit of the covenant or other third party rights, a right to compensation in appropriate circumstances. It is not envisaged that section 260(1) can be used so as to sanction a CPO which does not cover land other than the land in which the highway authority have acquired the interest by agreement. Section 260(3) and (4) provides for enabling lessees of, or contractors operating, a service area or a lorry area to use the land for those purposes, notwithstanding the existence of a restrictive covenant or other third party rights, in the same way that the highway authority themselves could use the land.

xiii. Drainage of Highways

76. Reference has been made in paragraphs 70 to 71 to the power in the Highways Act 1980 to acquire rights over land for drainage purposes but there are several other provisions in, and points arising from, the Act in relation to drainage which are mentioned below.

77. Where it is proposed to lay drains for an existing highway, this work can be done under section 100(1) to (3) of the 1980 Act if the drains are to be laid on land adjoining or near to the highway. In addition a highway authority can, under section 100(5) and (6), use Public Health Act powers to drain their highways and proposed highways. In all these cases the acquisition of specific rights by CPO is unnecessary. The cases where rights acquisitions may be necessary or desirable are, generally, cases involving *new* highways, as section 100(1) to (3) only applies to highways—it does not apply to *proposed* highways.

78. Where rights to lay and maintain drains are involved and they are to be used for discharging water into any watercourse or any drainage or other works vested in or under the control of a navigation authority, the Environment Agency, (in relation to functions of the former National Rivers Authority) or other drainage body within the meaning of the Land Drainage Act 1991, section 339 will apply and the consent of the relevant authority will be needed—though that authority are required not to withhold such consent unreasonably. Before confirming a CPO providing for the acquisition of land or rights in such cases, the Secretary of State for Transport will require to be satisfied that the necessary consents have been given or that the consent of these authorities is not needed.

79. Section 19(1)(b) of the Acquisition of Land Act 1981 enables the Secretary of State for the Environment to give a certificate, in a case where common open space etc is proposed to be acquired compulsorily for the drainage of a highway or partly for the widening and partly for the drainage of a highway. Where such a certificate is given, the order will not be subject to special parliamentary procedure.

80. An adequate width of land should be acquired to permit the use of construction machinery on the land for digging the trench and carrying out the necessary works.

xiv. Power to Acquire Land Outside the Highway Boundary

81. Section 246 of the Act provides the power to acquire land compulsorily (or by agreement) outside the proposed boundary of a highway in order to reduce the adverse effects of the existence or use of the highway on its surroundings, as follows:—

(i) Section 246(1) provides that highway authorities may acquire land compulsorily for the purpose of mitigating any adverse effect which the existence or use of highways constructed or improved by them (or proposed to be constructed or improved by them) has or will have on the surroundings of those highways. This power enables the acquisition of land needed to maintain or improve the environment of areas adjacent to the road. Having acquired such land, highway authorities may make suitable use of it under the provisions of section 282 or they may dispose of it under existing powers. (The expression "for the purpose of mitigating any adverse effect" is considered to extend to an incidental improvement of the environment.) It is considered desirable that wherever possible section 246(1) land should be included in the same compulsory purchase order as the land required for the highway itself and that the acquiring authority should be in a position to show what they intend to do with the land (*e.g.* what works under section 282 they propose to carry out (see (vi) below). Compulsory acquisition of land under section 246(1) must begin before the opening of the new or improved highways.

(ii) Section 246(5) provides that where under the powers of this clause a highway authority acquire land forming part of a common, open space or fuel or field garden allotment, and other land is required for the purpose of being given in exchange, the authority may acquire that other land compulsorily or by agreement.

(iii) Section 246(4) defines, for the purpose of section 246(3), when the acquisition of any land acquired compulsorily is begun, as being on the date when the notice is published of the

making of a compulsory purchase order; but if compulsory purchase procedure was begun within the time limited by section 246(3) and not proceeded with, any subsequent compulsory acquisition of the land concerned will continue to be treated as begun within the time limited by section 246(3).

(iv) Section 250(1) makes it clear that the expression "highway land acquisition powers" includes the power to acquire land under section 246. This means that the powers to acquire rights compulsorily under section 250, the power to make a CPO to clear title under section 260, the provisions relating to concurrent procedure in section 257 and the power to make or confirm a compulsory purchase order in part under section 259 will apply to the acquisition of land under section 246.

(v) Section 246(7) makes it clear that reference to construction or improvement of highways in section 246 includes references to construction or improvement pursuant to side roads orders. An authority constructing or improving a road pursuant to a side roads order may therefore acquire land under section 246 for mitigating the adverse effects which the side road will have on the environment.

(vi) Section 282 enables highway authorities to carry out works for mitigating the adverse effects which the existence or use of a highway has or will have on the surroundings of the highway. This means that there are specific powers to erect physical barriers (such as walls, screens or mounds of earth) alongside roads in order to reduce the effects of traffic noise on people living nearby. Section 282(2) ensures that it is possible for the appearance of any earth mounds or other landscaped works provided under section 282(1) to be improved by planting. The provision under section 282(3) that a highway authority may develop or redevelop any land acquired by them under section 246 enables the construction of buildings alongside new or improved roads: such buildings may be constructed so as to act as a barrier against traffic noise or otherwise for the mitigation of adverse effects of the highway on its surroundings.

I. Procedural Points Affecting the Treatment of Objections and the Consideration of Orders

i. Concurrency of Operative Dates of Orders

82. Under section 18(5) of the Act a scheme under section 16 and an order under section 18 (relating to special roads) may be brought into operation on the same date; and section 257(3) makes a like provision in respect of the associated CPO in the case of special road schemes and orders and in the other cases listed in Schedule 20 to the Act.

83. In bringing related schemes and orders into operation on the same date, however, it is important for local highway authorities to bear in mind that whereas a section 16 scheme and a section 18 order come into operation on the date upon which the requisite statutory notice is first published (*i.e.* first published in the London Gazette and local newspaper) or on such later date, if any, as may be specified in the scheme or order, a CPO comes into operation on the date of first publication in the local newspaper of the notice of confirmation of that order by the Secretary of State for Transport—there is no power to fix a *later* operative date in the CPO. Local authorities should therefore take care, in cases of concurrent procedures, to see that the CPO confirmation notice is not published *before* any related Highways Act scheme and/or order has come into force.

ii. Power to Disregard Certain Objections

84. Where a CPO depends on any of the schemes or orders set out in schedule 20 of the 1980 Act, and on which a decision has been given, the Secretary of State for Transport under section 258(1) has power to disregard an objection to the CPO if, in his opinion, it amounts in substance to an objection to the related scheme or order. This power is designed to be used only in cases where a scheme or order and its related CPO are not being processed concurrently.

85. The power to disregard repetitious objections is discretionary and the Secretary of State is not therefore *obliged* to disregard them; he would undoubtedly wish to hear and consider any objection which appeared to raise new points or where, owing to the lapse of time since the earlier decision, changed circumstances might make it desirable to consider alterations to the road scheme as originally proposed. This power to disregard repetitious objections does not extend to persons appointed to conduct public inquiries who—while they may draw the attention of objectors, in appropriate cases, to the existence of these provisions—should listen to and report on any points made by the objectors so that they can be considered by the Secretary of State.

iii. Submission of "Alternative Route" Objections

86. Provision has been made in section 258(2) and (3) of the Act under which an objector to a CPO who wishes to propound an alternative route at a public inquiry or hearing into objections may be directed to furnish the Secretary of State for Transport with sufficient particulars of the alternative route to enable it to be identified. (Objectors cannot however be required to produce full engineering drawings nor, indeed, to produce them in any particular form.) Objectors must be given at least fourteen days in which to prepare their particulars of the alternative route and they are required to submit them to the Secretary of State not less than fourteen days before the date of the inquiry or hearing. It is the Department's intention to include any such direction in the notice of the inquiry or hearing which is issued at least six weeks before the event. As copies of such submissions, received by the Secretary of State, will need to be sent to the acquiring authority as they are received, but in sufficient time to enable the authority to consider them before the inquiry, it will be the Department's aim to specify a submission date in the notice which would terminate some 3 weeks before the date of the inquiry or hearing.

87. In cases where an objector fails to comply with a direction to submit details of alternative route proposals, both the Secretary of State and any person conducting an inquiry or hearing in connection with the matter have power to disregard the objection insofar as it consists of a submission about an alternative route. But this power is discretionary and neither the Secretary of State nor the inspector is *obliged* to disregard this ground of objection.

iv. Part-confirmation of Compulsory Purchase Orders

88. Section 259 of the 1980 Act empowers the Secretary of State for Transport to confirm part of a CPO and defer his decision on the remaining part. Where an order is confirmed in part, that part and the remaining part will be treated as becoming separate orders for procedural purposes and the notice of confirmation, of the first part of the order, will contain a statement of the effect of the Secretary of State's direction postponing consideration of the remaining part.

89. In deciding whether to exercise his power to confirm, with or without modifications, part of a CPO, the Secretary of State will give very careful consideration to the relationship between that part and the remainder of the order, and he will not use that power in cases where the remaining part is of a controversial nature and the interests of the objectors to that remaining part would be likely to be prejudiced by part-confirmation.

J. Submission of Compulsory Purchase Orders for Highway Schemes for Confirmation by the Secretary of State for Transport

i. Documentary Requirements

90. The documents required by the Department are as laid down in Appendix A to DOE Circular 14/94 and at Appendix V to this circular.

ii. Submission of Made Orders

91. Attention is drawn to the requirements of section 10(3) and to the importance of the words "about to be submitted" in sections 11(2)(a) and 12(2)(b) of the Acquisition of Land Act 1981. What is a reasonable interval in a particular case must depend on the circumstances. But in general, submission of a made order for confirmation is a procedural matter and the Secretary of State has been advised that an objector could have the order quashed if he could show that he had been substantially prejudiced by an authority's failure to submit an order within a reasonable time of publication and service of notices.

iii. Supplementary Information

92. It would also help if, in the application for confirmation, the local authority would:—

(1) where a distance limit on the acquisition of land is applicable (see paragraph 74), confirm that the plot(s) to which such a limit may relate is/are within 201 metres (220 yards) or 805 metres (880 yards), as appropriate, from the relevant centre line;

(2) supply a detailed scheme plan which shows the intended works on completion to enable the Minister to get an overall picture of the proposals;

(3) in every case, indicate whether the CPO covers all outstanding land requirements for the complete scheme. If it does not, the Secretary of State may need to be satisfied that entry to all the land excluded from the CPO can be obtained, when required, before he confirms the CPO

93. It is *not* necessary for District or other professionally qualified Valuers' reports of land estimates to accompany applications to confirm CPOs.

iv. Adequate Time to be Allowed for Statutory Processes

94. It is important to establish in good time precise details of the land required and to allow adequate time for CPO processes. The minimum times which should be allowed in various circumstances are indicated in Appendix IV to these Notes.

v. Related Side Roads Orders

95. Where there is a related side roads order it should be processed, as far as possible, at the same time as the CPO. Where it is agreed a CPO may be submitted in draft the related side roads order should be submitted at the same time.

K. CPOs Which are Defective or Raise Legal Difficulties

96. Where a CPO is so defective in form or contains serious mistakes, or if the defects or mistakes have been used as a basis for objection by individual landowners, it may be necessary for the Secretary of State to refuse confirmation because of defects in form alone.

97. Whilst only the Courts can rule on the validity of compulsory purchase orders, the Secretary of State would not think it right to confirm an order if it appeared to be invalid.

98. Where a CPO is defective or raises legal difficulties, the procedure which will be put into force by the Secretary of State is on similar lines to that set out in paragraph 23 of DOE Circular 14/94. now 06/04 para 50.

L. Re-assessment of Need for Road Scheme

99. The Secretary of State has been advised that the word "required" in section 239 of the Highways Act 1980 is to be understood as "immediately required". Therefore, if after having submitted an order for confirmation a local highway authority for any reason decides to defer the carrying out of the scheme the Department should be informed immediately and the application for confirmation withdrawn.

M. Perusal of Draft Order by the Department

100. For routine clearance of draft orders local highway authorities should obtain advice from their own legal departments. Further advice and guidance on specific and complex or unusual drafting points can be obtained from the Department of Transport, Local Authority orders, Wellbar House, Gallowgate, Newcastle upon Tyne, NE1 4TD. Any advice or guidance provided by the Department would be without prejudice to the Secretary of State's consideration of orders when made and submitted for confirmation.

LOCAL AUTHORITY CIRCULAR 2/97 APPENDIX I

LAND ACQUISITION POWERS TO BE CITED IN COMPULSORY PURCHASE ORDERS FOR HIGHWAYS PURPOSES

Statutory power to be cited	Purpose of proposed acquisition
Road Traffic Regulation Act 1984 Section 40	(a) Provision of off-street parking places, including means of access thereto and therefrom and buildings or other facilities necessary to their use, by County Councils and, with the consent of the County Councils, by District Councils. [NOTE: section 186(1)(a) of the Local Government Act 1972 empowers both County and District Councils to provide off-street parking but under section 39 of the 1984 Act the latter cannot exercise their powers without the consent of the County Council. Where off-street parking places are to be provided by County Councils, section 39(7) of the 1984 Act provides that they shall consult the District Council concerned].
	(b) Provision of means of access to premises adjoining or abutting on to such parking places. [NOTE: Where the extension given by section 34 of the 1984 Act is relied on that section should be cited.]
Section 57	Provision of facilities similar to those in (a) and (b) above by Parish Councils (but subject to the consent of the County Council).

	[NOTE: The power to acquire land compulsorily for such purposes is exercised by the District Council on behalf of the Parish Council under the provisions of section 125 of the Local Government Act.]
Local Government Act 1972 Section 101	Agency agreement with non-highway authorities—see Note 6 to model Forms A, B and C in section 3 of Local Authority Circular 1/97
Highways Act 1980 Section 6 and 8	Construction or improvement of highways by agreement with another local highway authority.
Section 239	(a) construction of a new highway or improvement of an existing highway, and provision of exchange land where common, etc, land is to be acquired for these purposes; (b) improvement or development of frontage to a highway or land adjoining or adjacent thereto; (c) improvement of a highway included in the route of a special road but not yet transferred to the special road authority; (d) the provision of side roads and private accesses by means of an order under section 18 of the 1980 Act; (e) provision of a service area, maintenance compound or other buildings or facilities in connection with a special road.
Section 240	(a) to carry out works authorised by an order under section 14 (*i.e.* side roads to classified roads, new means of access to premises, diversion of navigable watercourses); (b) provision of new means of access to premises under section 129; (c) use of land in connection with the construction or improvement of a highway or with the carrying out of works authorised by an order under section 18 or under section 14 or 108 (instances or such use are for working space, or for provision of access to a working site); (d) diversion of a non-navigable watercourse or carrying out of other works on any watercourse under section 110; (e) provision of public sanitary conveniences under section 114; (f) the provision of a lorry area under section 115; (g) provision of exchange land where common, etc, land is required for any of the purposes in (a) to (f) above.
Section 245	Provision of a highway depot or other facility needed for the functions of a local highway authority.
Section 246	To mitigate the adverse effect of the existence or use of the highway on its surroundings.
Section 248	The acquisition of land in advance of requirements in the circumstances mentioned in sub-section (3) of this section.
Section 249	The distance limits from the highway applicable to compulsory acquisition are laid down in Schedule 18, Parts I and II.
Section 250	Where provision is made for the compulsory acquisition of rights by the creation of new rights, or where exchange land is to be acquired for common, etc. land to be burdened with new rights.
Section 260	Where land acquired by agreement is included in a CPO so as to override the effects of a restrictive covenant or other third party right.

APPENDIX IIA

MODEL CPO SCHEDULE—LAND ACQUISITION SCHEDULE

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
1	9.8 square metres. Part of car park at The Elm Tree Public House fronting Darwin Lane, Newtown	Mild & Bitter Ltd High Grove Brewfield Deeshire EX2 1UB	Mr S Noble The Elm Tree Darwin Lane Newtown Exshire EX2 2TS	Lessee
2	12 square metres. Part of the forecourt of No. 2 Darwin Lane, Newtown	Mr M J Pinter 2 Darwin Lane Newtown Exshire EX2 1UZ	—	Owner
3	4 square metres. Part of the factory yard at Russell House, Darwin Lane, Newtown.	Russell and Co (Firley) Limited Russell House Darwin Lane Newtown Exshire EX2 1UR	—	Owner
4	3.3 square metres. Part of the front garden of No. 30 Darwin Lane, Newtown	Chapman & Baker Limited 34/44 Darwin Lane Newtown Exshire EX2 7TR		
5	14 square metres. Part of the front garden of No. 32 Darwin Lane Newtown and of the entrance way to the works at the rear thereof	Mrs M D Fairley Buckfield House Lower Footstead Deeshire	Mr G Hill and Mr H Hill 32 Darwin Lane Mr N Teacher 32 Darwin Lane Newtown Exshire EX2 5TS	Lessees
6	18 square metres. Part of the grounds of No. 34 Darwin Lane, Newtown	Chapman & Baker Limited 34/44 Darwin Lane Newtown Exshire EX2 7TR	—	Owner
7	108 square metres. Arable land, parts of public footpath (XYZ 17), river bank and bed of ditch all on the west of the River Darwin (Part of OS 6001) (Sheet A)	Darwin Farms Ltd Darwin Court Newtown Exshire EX2 6TR	—	Owner

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
8	187 square metres. Part of an open space known as Martins playing field and bed of ditch on the west of the River Darwin (Part of OS 6001 (Sheet A).	The Borough of Newtown Town Hall Newtown Exshire EX2 2UR	—	Owner
9	7 square metres. Part of the grounds of the milk depot at No. 82 Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milktown Teeshire NE1 2TD	—	Owner
10	21.6 square metres. Part of the grounds of the milk depot at 82 Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milktown Teeshire NE1 2TD	—	Owner
11	9 square metres. Part of the front garden of No. 84 Darwin Lane	Daily Dairy Co 26 Hope Road Milktown Teeshire NE1 2TD	—	Owner
12	52 square metres. Part of the forecourt of the former Blue Bowl Public House, Darwin Lane, Newtown	Daily Dairy Co 26 Hope Road Milktown Teeshire NE1 2TD	—	Owner
13	37.4 square metres. Part of the forecourt of The Darwin Public House, Darwin Lane, Newtown	Mild & Bitter Ltd High Grove Brewfield Deeshire EX2 1UB	Mrs G T Bright The Darwin Public House Darwin Lane Newtown Exshire	Lessee
14	5 square metres. Part of the back garden of No. 3 Harbour Road, Newtown	Mr R Shipp 3 Harbour Road Newtown Exshire EX5 7UP	—	Owner
15	416 square metres. Part of small-holding adjoining 32 Beeston Road, Newtown	The Hon Charles Rogers The Mallings Tindon Road Extown EX5 6UP	—	W D Skelton 32 Beeston Road Newtown
16	634 square metres. Arable land forming part of Deeves Farm, Colney Heath, south of St James Street	Lady Elizabeth Bing Wrotham Park Barnham Exshire EX5 5UP	R D Sinclair Deeves Farm Colney Heath Exshire	Lessee

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
17	902 square metres. Unoccupied site of demolished buildings formerly known as 22–31 Hepworth Villas, Newtown	Unknown	—	—

APPENDIX IIB

MODEL CPO SCHEDULE—MISCELLANEOUS RIGHTS
(OWNERS ETC OMITTED)

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
1	The right to construct and maintain a ditch 144 metres long in ..... square metres of pasture land (Part of O.S. No. 24). (Sheet B).			
2	The right to construct and maintain a 0.5m × 0.5m culvert 4 metres long in ..... square metres of pasture land on the north of the road from Severn Stoke to Purton (Part of O.S. No. 11). (Sheet C).			
3	The right to lay and maintain a 0.3m culvert 125 metres long, in substitution for the existing 6cm pipe culvert, in ..... square metres of pasture land (Part of O.S. No. 82). (Sheet C).			
4	The right to cleanse, widen and deepen the ditch in ..... square metres of land, being partly bed of the ditch and partly pasture land (Part of O.S. No. 40). (Sheet D).			
5	The right to alter the depth of Blundel Brook for ..... metres of its length in ..... square metres of land being partly the bed of the Brook and partly pasture land (Part of O.S. No. 40). (Sheet D).			

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
6	The right to drain and to fill in a ditch for ..... metres of its length (Part of O.S. No. 15) (Sheet E).			
7	The right to construct and maintain a water course 117 metres long, and to divert the River Avon to flow therein, in ..... square metres of pasture land on the north of the road from Severn Stoke to Purton (O.S. No. 667). (Sheet F).			
8	The right to divert the River Avon away from and to fill in ..... square metres of its existing bed on the south side of the railway near Lilbourne Station.			
9	The right to widen the River Salwarpe in 333 square metres of pasture land partly on the south-west of Crown Lane, and partly on the north-east of Queen's Road.			
10	The right to alter the course and depth of the River Dee in 10,280 square metres of land being partly bed of the River and partly pasture land (Part of O.S. No. 43). (Sheet F).			
11	The right to drain and to fill in a pond in ..... square metres of land (Part of O.S. No. 68). (Sheet F).			
12	The right to drain ..... square metres of marshland (Part of O.S. No. 70) (Sheet F).			
13	The right to fill in a depression in ..... square metres of land for the support of the trunk road (Part of O.S. No. 25). (Sheet G).			

Number on Map (1)	Extent, description and situation of the land (2)	Owners or reputed owners (3)	Lessees or reputed lessees (4)	Occupiers (except tenants for a month or less) (5)
14	The right to construct and maintain a bridge to carry the ..... By-Pass over 124 square metres of Church Lane on the south-east of its junction with Brewers Lane.			
15	The right to construct and maintain a viaduct to carry the special road over 53 square metres of vacant land in Boston Park Road, Brentford.			
16	The right to construct and maintain a bridge to carry the new highway over 2,460 square metres of the River Trent at Newark.			
17	The right to carry out works in ..... square metres of land forming the bed and banks of the River ..... so as to provide an even gradient and flow therein.			

APPENDIX IIIA

SPECIMEN DRAFT COP
HIGHWAY AUTHORITY MAJOR ROAD SCHEME
[TITLE OF THE ORDER]
THE HIGHWAYS ACT 1980 AND THE
ACQUISITION OF LAND ACT 1981

[NOTE: The figures in this margin are the numbers of the relevant sections]

The ..... Council (in this order called "the acquiring authority") hereby make the following order:

1. Subject to the provisions of this order the acquiring authority are, under sections [6][8] 239, 240 [and] [246] and [249] [and] [250] of the Highways Act 1980, hereby authorised to purchase compulsorily for the purpose[s] of—

(239 and 240) (1) the [construction] [and] [improvement] of a highway between ..... and ..... at ..... in the [Borough] [District] of ..... in the County of .....

(239 and 249) (2) the construction of highways to connect the above mentioned highway with the existing road system at [brief description of locality of interchanges];

(239 and 249) (3) the improvement of [the following highways:— here name highways to be improved—in the said—description of locality] [highways in the vicinity of the route[s] of the above mentioned highways] [in pursuance of the ..... Side Roads Order 19];

(240) (4) the provision of new means of access to premises [in pursuance of the ..... Side Roads [and Other Words] Order 19];

(240) (5) [the diversion of a [navigable] watercourse and] the carrying out of [other] works on watercourses in connection with the [construction] [and] [improvement] of highways [and the provision of new means of access to premises] as aforesaid;

(240) (6) use by the acquiring authority in connection with the [construction] [and] [improvement] of highways [the diversion of a navigable watercourse] [and the provision of new means of access to premises] as aforesaid;

(239 and 249) (7) the improvement or development of frontages to the above mentioned [new and existing] highways or of the land adjoining or adjacent thereto; and

(246) (8) mitigating the adverse effect which the existence or use of [certain of] the highway[s] proposed to be constructed or improved [as mentioned in article[s] ..... of this order] will have on the surroundings thereof,

the land which is described in the Schedule hereto and is delineated and shown coloured pink on the map hereinafter mentioned [and the rights which are specified in the said Schedule over the land which is described therein and is delineated and shown coloured blue on the said map]. The map aforesaid is a map [consisting of .... sheets numbered ... to ... respectively], prepared in duplicate, sealed with the Common Seal of the acquiring authority and marked ... "Map referred to in the ..... Compulsory Purchase Order 19 ". One duplicate of the map is deposited in the offices of the acquiring authority and the other is deposited in the offices of the Secretary of State for Transport.

[2. Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 are hereby incorporated with this order subject to the modification that references to the said Part[s] of the said Schedule to the undertaking shall be construed as references to any building or work constructed or to be constructed on that part of the land authorised to be purchased [*hatched black*] on the said map [*or, as the case may be, on the land over which new rights are authorised to be acquired*].]

APPENDIX IIIB

NOTES FOR USE IN DRAFTING THE PURPOSES OF A CPO FOR LOCAL HIGHWAY AUTHORITY ROAD SCHEMES (APPENDIX IIIA)

The Statement of the purposes of acquisition

1. The specimen draft CPO (Appendix IIIA) lists seven purposes. In most cases not all of these purposes will be needed although, if the scheme is a complex one, it may involve a reference to them all. Comments on the purposes are set out below:—

(1) *Sub-article (1)* deals with the construction of a new highway. What is needed here is a brief description of the new highway. It will normally be necessary to indicate where the new highway begins and where it ends, though there may be cases where this will be unnecessary. For instance, if the new highway is to by-pass a particular town, it will be sufficient to state the purposes by referring to the by-pass as simply "a highway to by-pass [name of town] to the east" or appropriate direction. No reference should be made to this purpose when a highway is merely being improved.

(2) *Sub-article (2)* deals with the slip roads. A major new highway scheme today will nearly always involve the construction of interchanges or slip roads or other means of con-

necting the new highway at points along its length with the existing road system. Some mention of these ancillary roads should be made in the statement of purposes, though the description need not be very elaborate. The specimen envisages a brief description of the locality of each interchange.

(3) *Sub-article (3)* deals with the improvement of highways in connection with the new road scheme. A major road scheme today will almost always either be part of a larger scheme which involves the improvement of other highways, or will itself be a scheme involving the alteration of highways in the vicinity of its route (*i.e.* the side roads). If only a few highways need to be altered, it may be most convenient to name them in the CPO but where a large number of highways will be affected by side road alterations, some general reference such as"existing highways in the vicinity of the route[s] of the above mentioned highway[s]" will be more appropriate. If the improvement is being carried out in pursuance of a side roads order under section 14 of the Act, this should be mentioned. Where, as will often be the case, the alteration of the side roads will involve the construction of new side roads as well as the improvement of existing side roads, this should be made clear. In this event sub-article (3) could be reworded on the following lines "(3) the construction of other highways and the improvement of existing highways in the vicinity of the route[s] of the above mentioned highway[s] [in pursuance of the ..... Side Roads Order 19...]". In framing sub-article (3) the aim should be to give a clear and accurate picture of what is proposed, while avoiding a mass of detail which will be difficult to read and can, so easily, be wrong in some particular. If it is felt desirable to list specific improvements, this can be done in the statement of reasons. There is no need to specify against each purpose stated in the CPO the particular section in Part XII of the Highways Act 1980 under which improvements are being carried out. In cases where a side roads order is involved, this order must be made not later than the date on which the CPO is made.

(4) *Sub-article (4)* deals with the provision of new means of access to premises. Such provision may be dealt with by means of an order under sections 14 and 125 of the 1980 Act, or it may be dealt with under section 129 without an order. If only a few new means of access are proposed, they can be specifically identified, but if a significant number of new means of access are to be provided then a more general reference would appear to be desirable. Again if they are to be provided in pursuance of an order, there should be a reference to the order.

(5) *Sub-article (5)* refers to the diversion of navigable or other watercourse and the carrying out of other works on watercourses in connection with the highway scheme. If the scheme is one which will involve such diversion or other works then it seems desirable that a CPO should specifically refer to this fact.

(6) *Sub-article (6)* speaks of use in connection with the highway works. The purposes here envisaged are those referred to in section 240(1) or (2)(a) of the Act. It will normally be found desirable to make use of this power in cases where the highway authority wish to acquire land outside the boundaries of the new or improved highway for use as working space or as means of access to working sites or for other ancillary purposes of this nature (*e.g.* where the line of new construction or improvement cuts through a building and it is impracticable for the scheme to be carried out unless the entire building is demolished). However, this power is not a licence to include excess land in the CPO and the necessity for any land outside the site of the highway works should be strictly justified in the Statement of Reasons, *e.g.* gardens attached to buildings which it is necessary to acquire for demolition purposes.

(7) *Sub-article (7)* deals with the improvement or development of frontages or of land adjoining or adjacent to the highways affected (see section 239(6) of the Act). The purposes of the acquisition here are somewhat wider than the purposes referred to in (6) above. Where it proposed to acquire significant areas of land outside the line of the new or improved highways (and the land is not wanted for side road alterations or new means of access to premises or other purposes mentioned in the previous paragraphs) then the need to include the purpose stated in sub-article (7) should be considered. But highway authorities proposing to invoke section 239(6) should have clear ideas of what they propose to do with the land acquired in exercise of this power and should indicate these ideas in the statement of their reasons for making the CPO.

(8) *Sub-article (8)* deals with land being acquired to mitigate the adverse effects the existence or use of highways will have on their surroundings. Such land therefore must fall outside the highway boundary. It is now no longer necessary however for the purpose of acquisition of such land to be cited in a separate article or for the land to be differently coloured (in the past yellow) from other title plots.

2. The concluding words to the first sentence in Article 1, in square brackets, to the specimen

CPO show the material to be included in cases where rights are being acquired. This wording must be in the order and the rights plots shown by a distinct symbol or colour on the plan. Where new rights are being acquired, section 250 of the Act should be referred to in the opening lines of Article 1. The need to cite section 250 does not dispense with the need to also cite the section (*i.e.* 239 or 240 of the Act) which gives the power to acquire land in relation to which the new rights are required.

3. When the CPO relates to a new special road, section 239 of the Act must be cited if (as will usually be the case) the scheme involves a side roads order under section 18. In addition, there should be included in the statements of purposes under (1) and (2) above a reference to the special road scheme under section 16. In all special road cases the scheme under section 16 and the side roads order under section 18 must have been made by the local highway authority not later than the date on which the CPO is made.

APPENDIX IV

A GUIDE SHOWING TIMES WHICH SHOULD BE ALLOWED FOR DIFFERENT STEPS IN THE PROCESSING OF A COMPULSORY PURCHASE ORDER

COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
1. Application submitted for confirmation of Order (normally prior to its publication).	—	—	—
2. Order objection period from— (i) Service of Notice upon Land Interests, and (ii) Publication of Notice. Objection periods in (i) and (ii) not always being concurrent.	MINIMUM OF 3 WEEKS	MINIMUM OF 3 WEEKS	MINIMUM OF 3 WEEKS
3. Secretary of State for Transport gives Notice of his intention to hold an Inquiry.	N/A	WITHIN 2 WEEKS OF THE LAST DATE FOR RECEIPT OF OBJECTIONS, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	WITHIN 2 WEEKS OF THE LAST DATE FOR RECEIPT OF OBJECTIONS, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).

COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
4. Department's assessment of Order's confirmability intechnical and legal terms and possible reference to Departmental Solicitors for clearance.	3 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	3 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).	3 WEEKS FROM THE DATE OF THE END OF THE ORDER OBJECTION PERIOD, OR THE DATE OF SUBMISSION OF THE ORDER APPLICATION (WHICHEVER OF THOSE DATES IS THE LATER).
5. Promoting authority serves their statement of case for the Order upon the Secretary of State for Transport and objectors.	N/A	NOT LATER THAN 6 WEEKS FROM THE NOTICE OF INTENTION TO HOLD AN INQUIRY (DETAILED AS PROCEDURE 3).	NOT LATER THAN 6 WEEKS FROM THE NOTICE OF INTENTION TO HOLD AN INQUIRY (DETAILED AS PROCEDURE 3).
6. Return of case from Departmental Solicitors, if applicable.	—	—	—
7. Public Inquiry held.	N/A	N/A	AT PROMOTING AUTHORITIES SUGGESTION BUT NOT EARLIER THAN 13 WEEKS FROM THE DATE OF THE LETTER SUGGESTING INQUIRY DATES (TO ENABLE ARRANGEMENTS TO BE MADE/ NOTICE OF INQUIRY TO BE SERVED) AND NOT LATER THAN 22 WEEKS FROM THE DATE OF NOTICE OF INTENTION TO HOLD THE INQUIRY (DETAILED AS PROCEDURE 3).
8. Receipt of Inspector's Report	N/A	N/A	—

COLUMN (1) PROCEDURAL STAGE	COLUMN (2) NO OBJECTIONS	COLUMN (3) OBJECTIONS REMOVED WITHOUT NEED OF AN INQUIRY	COLUMN (4) INQUIRY
9. Issue of the Secretary of State's decision on the Order and its confirmation if so decided.	WITHIN 5 WEEKS OF THE END OF THE ORDER OBJECTION PERIOD, OR WITHIN 2 WEEKS OF RETURN OF CASE FROM DEPARTMENTAL SOLICITORS OR 2 WEEKS FROM THE DATE OF CLEARANCE OF ALL OUTSTANDING MATTERS	WITHIN 5 WEEKS FROM DATE OF THE END OF THE ORDER OBJECTION PERIOD; WITHIN 2 WEEKS OF RETURN OF CASE FROM DEPARTMENTAL SOLICITORS AND/OR CLEARANCE OF ALL OUTSTANDING MATTERS; OR 2 WEEKS FROM WITHDRAWAL OF LAST OBJECTION WHICHEVER IS APPLICABLE.	10–16 WEEKS FROM RECEIPT OF INSPECTOR'S REPORT (DETAILED AS PROCEDURE 8).

NOTES

Handling times for procedures dealt with by third parties are outside the control of the Local Authority Orders Section, namely the time a case will spend with Departmental Solicitors and the time taken by an Inspector to produce his report. In both cases times will vary depending on the size and complexity of the order proposals and in the case of an Inspector's Report, the length of the Inquiry proceedings. The absence of Departmental solicitor's comments on a case will not prevent commencement of the Inquiry process, unless the Department's initial assessment of the order reveals any deficiency or outstanding matter that may need to be resolved before embarking upon Inquiry proceedings.

The procedural times listed assume a "complete" application submission as made at Stage 1 (see Appendix V for application requirements). Omissions can lead to delays in commencing, or progressing, the procedures.

A Highway(s) CPO is usually associated with other Orders/permissions or consents handled jointly. The 22 week Inquiry limit detailed at 7 above (as laid down by the Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990, S.I. 1990/512) may be extended in such cases by differing Inquiries and other procedural timings of those associated matters.

In the Department's experience most CPOs are the subject of a public local inquiry. Based on a Council suggesting the earliest possible dates for an inquiry, *THE COUNCIL SHOULD ALLOW NOTHING LESS THAN 13 MONTHS FOR COMPLETION OF THE ORDER PROCEDURES.* This period will be lengthened where later inquiry dates are suggested, or when the order is associated with other Orders/consents subject to lengthier procedural timescales or later submission by the Council. It is for the Council to judge the additional timescale involved in such cases, although the Department's view is that it would not be sensible for the Council *TO PROGRAMME FOR A PERIOD OF LESS THAN 18 MONTHS.*

If an Order is to be subject to special parliamentary procedure, an extra 13 weeks (minimum) should be allowed, following order confirmation.

APPENDIX V

DOCUMENTS TO BE SUBMITTED WITH A MADE COMPULSORY PURCHASE ORDER

1. At least 1 SEALED ORDER and 2 SEALED PLANS.
2. Four copies of SEALED ORDER AND PLAN (Circular 14/94).
3. CERTIFICATES TO ACCOMPANY APPLICATION—

(a) CERTIFICATE IN SUPPORT OF ORDER SUBMISSION (APPENDIX D Circular 14/94 in which the Council will certify to the Secretary of State for Transport—

(1) the form of the Notice used and in what local newspaper/s and when it was published.
(2) the form of the Notice served on land interests, on whom it was served and the last date for objections.
(3) if the CPO includes land in unknown ownership, that Notices were served in accordance with section 6(4) of the Acquisition of Land Act 1981.
(4) the details of the deposit of the Order for public inspection.
(5) on whom the Council's Statement of Reasons for making the order has been served and
(6) if Ecclesiastical land is included in the order, that the Church Commissioners have been served Notice of the effect of the Order.

Statements as in (1), (2), (4) and (5) will apply in all cases. Those in (3) and (6) only as the circumstances may exist in the Order. A check must be made in the Scheduled listings of the Order for land in the said categories (3) and (6).

(b) CERTIFICATE REGARDING BUILDING PRESERVATION, OR NIL RETURN (Appendix H Circular 14/94) Schedule 5 Circular 06/94

(c) CERTIFICATE WHETHER ORDER CONTAINS (a) ANY CONSECRATED LAND AND (b) ANY LAND IN A CONSERVATION AREA

4. 2 COPIES of the Council's STATEMENT OF REASONS (which will have been sent with personal notices to land interests).
5. COUNCIL'S RESOLUTION TO MAKE THE ORDER.
6. A STATEMENT of the position on planning permission (if not included in Statement of Reasons). The Secretary of State will not confirm an Order before a decision has been made on associated planning applications.
7. A detailed Engineering Drawing of the proposals contained in the Order (Minimum scale 1:2500, 1:1250 preferred in complex cases), unless already submitted in any related Scheme and/or SRO application submission.
8. A Statement from the Council indicating whether the CPO covers all outstanding land requirements for the completed scheme.